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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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HENRY DESEAN ADAMS,  
Plaintiff,  
v.  
DEPUTY RECTOR, et al.,  
Defendants.

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Case No. [18-cv-02689-YGR](#) (PR)

**ORDER OF DISMISSAL WITHOUT  
PREJUDICE**

9 On August 10, 2018, the Court issued an Order Dismissing Complaint With Leave To  
10 Amend. Dkt. 5. Specifically, the Court granted Plaintiff twenty-eight days from the date of the  
11 Order to file an amended complaint to allege facts sufficient to state a cognizable constitutional  
12 claim and to correct certain deficiencies in his complaint. *Id.* at 3-6. Plaintiff was warned that the  
13 failure to timely file an amended complaint would result in the dismissal of this action for failure  
14 to prosecute. *Id.* at 8.

15 The time for Plaintiff to file his amended complaint has passed, and no amended complaint  
16 has been filed. Taking into account the salient factors set forth in *Ferdik v. Bonzelet*, 963 F.2d  
17 1258, 1260 (9th Cir. 1992), the Court finds that dismissal is warranted under Federal Rule of Civil  
18 Procedure 41(b).<sup>1</sup> *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 989, 992 (9th Cir. 1999)  
19 (affirming dismissal of action following plaintiff's failure to amend complaint after receiving  
20 leave to do so, where the interest in expeditious resolution of litigation, the court's management of  
21 its docket, and avoiding prejudice to defendants favored dismissal).

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Accordingly,

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IT IS HEREBY ORDERED that the complaint in the above-captioned action is

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<sup>1</sup> If and when Plaintiff is prepared to pursue his claims, he may file a new civil rights action. The limitations period to file a section 1983 action in California is two years, but it is tolled for up to two years during a continuous period of incarceration. *See Silva v. Crain*, 169 F.3d 608, 610 (9th Cir. 1999) (holding, pursuant to Cal. Civ. Proc. Code § 340(3), that the limitations period for filing a section 1983 action in California is one year); S.B. 688 (amending Cal. Civ. Proc. Code § 340(3) and adding section 335.1 to establish two-year residual limitations period for personal injury actions); Cal. Civ. Proc. Code § 352.1(a) (providing for an additional two years of tolling during a period of continual imprisonment).

1 DISMISSED. The Clerk of the Court shall terminate all pending motions and close the file.

2 IT IS SO ORDERED.

3 Dated: October 4, 2018



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5 YVONNE GONZALEZ ROGERS  
6 United States District Court Judge  
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